

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JENNIFER DAY,

Plaintiff/Appellant,

vs.

No. CIV-16-720

**CITY OF SANTA FE, and
THE SANTA FE CITY COUNCIL
(Mayor Javier Gonzales
and City Councilors
Patti Bushee, Signe Lindell, Joseph Maestas,
Peter Ives, Carmichael Dominguez,
Chris Rivera, Ronald Trujillo and Bill Dimas
in their individual capacities),**

Defendants/Appellees,

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441(a) and 1446(a), Defendants, the City of Santa Fe and The Santa Fe City Council, Mayor Javier Gonzales and City Councilors Patti Bushee, Signe Lindell, Joseph Maestas, Peter Ives, Carmichael Dominguez, Chris Rivera, Ronald Trujillo and Bill Dimas in their individual capacities (*hereinafter referred to as “City Defendants”*), through their attorneys, Robles, Rael & Anaya, P.C. (Luis Robles, Esq. and David A. Roman, Esq.), give Notice of Removal to this Court of the civil action filed in the First Judicial District Court for the State of New Mexico, County of Santa Fe, Cause No. D-101-CV-2016-01360, by Mark A. Basham, Esq. on behalf of Plaintiff and as grounds therefore state:

1. On April 5, 2016, Plaintiff filed a Notice of Appeal Pursuant to Rule 1-074 with the

First Judicial District Court in case Day, Jennifer v. City of Santa Fe, et al., D-101-CV-2016-00886.

A copy of the Notice of Appeal is attached hereto as **Exhibit A**.

2. On May 4, 2016, Plaintiff filed a Notice of Filing of Record on Appeal in case Day, Jennifer v. City of Santa Fe, et al., D-101-CV-2016-00886. A copy of the Notice of Filing of Record on Appeal is attached hereto as **Exhibit B**.

3. On June 3, 2016, Plaintiff filed a Complaint and Statement of Appellate Issues (*hereinafter* referred to as “Complaint”) with the First Judicial District Court in case Day, Jennifer v. City of Santa Fe, et al., D-101-CV-2016-01360. A copy of the First Complaint and Statement of Appellate Issues is attached hereto as **Exhibit C**.

4. On June 9, 2016 the City of Santa Fe was served with the Plaintiff’s Complaint.

5. On June 14, 2016, Plaintiff filed a Notice of Errata with the First Judicial District Court in case Day, Jennifer v. City of Santa Fe, et al., D-101-CV-2016-01360. This Notice of Errata clarified that the Complaint and Statement of Appellate Issues (the case that is being removed) should have been filed under cause number D-101-CV-2016-00886, rather than as a separate cause of action. A copy of the Notice of Errata is attached hereto as **Exhibit D**.

6. This Notice of Removal is timely as it is being filed within thirty (30) days after Defendants were served with Plaintiff’s First Amendment Petition and First Amended Complaint.

7. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Santa Fe, State of New Mexico.

8. The claims stated against Defendants in this case are subject to the jurisdiction of this

Court as follows:

a. This Court has original jurisdiction because Plaintiff's Complaint and Statement of Appellate Issues are founded on a claim or right arising under the Constitution of the United States.

b. An actual controversy exists because Plaintiff's Complaint and Statement of Appellate Issues alleges that City Defendants violated Plaintiff's federal constitutional rights.

9. This Court has federal question jurisdiction because Plaintiff has brought a civil action arising, in part, under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

10. A federal question appears on the face of Plaintiff's Complaint and Statement of Appellate Issues. There is an actual controversy.

11. Pursuant to Rule 81.1(a) of the Local Rules of the United States District Court for the District of New Mexico, Defendants will, within thirty (30) days, file a Notice of Filing of State Court Record and certified copies of the pleadings filed in the First Judicial District for the State of New Mexico, County of Santa Fe, in Cause Nos. CV-2016-00886 and CV-2016-001360.

Respectfully submitted,

ROBLES, RAEL & ANAYA, P.C.

By: /s/ David A. Roman, Esq,
David A. Roman, Esq.
Luis E. Robles, Esq.
Attorneys for City Defendants
500 Marquette Ave., NW, Suite 700
Albuquerque, New Mexico 87102
(505) 242-2228
(505) 242-1106 (facsimile)

I hereby certify that the foregoing was sent via U.S. Mail and electronically served through the CM/ECF system on this 27th day of June 2016 to the following:

Mark A. Basham
Basham & Basham, P.C.
2205 Miguel Chavez Rd., Suite A
Santa Fe, NM 87505
Ph. (505) 988-4575
Fx. (505) 992-6170

/s/ David A. Roman, Esq,
David A. Roman, Esq.